



## OFFICE OF PETITIONS

COMMUNICATION REGARDING  
APPLICATION FOR EXTENSION OF PATENT TERM OF U.S. PATENT NO. 5,782,919  
Atty. Ref.: 4002-209  
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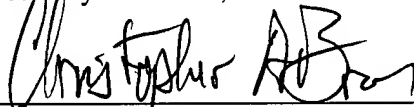
because that full term might be realized if the '909 patent did not live out the full extent of its term. It is observed that although the terminal disclaimer was acknowledged and provided in the above-identified application, a full discussion of the term extension calculation based on the possibility of a March 30, 2015 expiration date was not supplied.

The expiration date of the '919 patent after the requested extension, i.e. July 2, 2016, is accurate regardless of whether the extension is calculated from March 30, 2015 or from July 21, 2015. This is because, as shown in paragraph (11) of the application, the patent would be entitled to an extension of more than 1200 days based on the regulatory review period. However, by statute no patent can be extended beyond the date 14 years from the regulatory approval date, which is July 2, 2016 in this case. That date is 347 days from July 21, 2015 (see paragraph (11) of the above-identified application), and it is 460 days from March 30, 2015 (compare to the calculation in paragraph (11) of the application to extend U.S. Patent No. 5,984,967 based on the LT Cage<sup>TM</sup>/InFUSE<sup>TM</sup> Bone Graft Product, filed August 20, 2002). Thus, regardless of the day on which the extension begins, this patent is entitled to a term extension to and including July 2, 2016.

Accordingly, assuming the PTO decides to issue an extension of the '919 patent, **the PTO is respectfully requested to identify the extension as extending to and including July 2, 2016.** If the PTO has any questions or needs further information concerning this matter, it is invited to contact the undersigned attorney.

We look forward to an official communication from the PTO indicating allowance of the requested extension.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher A. Brown", is written over a horizontal line.

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